

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Gerken Materials, Inc.)	NOTICE OF VIOLATION
8200 Sylvania Avenue)	
Sylvania, Ohio 44036)	EPA-5- 01 -OH-03
)	
Proceedings Pursuant to)	
Section 113(a)(1) of the)	
Clean Air Act, 42 U.S.C.)	
§ 7413(a)(1))	

NOTICE OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1). U.S. EPA finds that Gerken Materials, Inc. (Gerken Materials) has violated the Ohio State Implementation Plan (SIP), as follows:

Statutory and Regulatory Background

- 1) U.S. EPA approved the Ohio Administrative Code (OAC) Chapter 3745-31 as part of the federally enforceable Ohio State Implementation Plan on October 31, 1980 (45 Fed. Reg. 72119). This approval included OAC Rule 3745-31-02.
- 2) OAC Rule 3745-31-05(A)(3) states that the director shall issue a permit to install or a plan approval, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio Environmental Protection Agency, or both, if he determines that the installation or modification and operation of the air contaminant source will employ the best available technology (BAT), except when the only requirement to obtain a permit to install is due to a modification as described in paragraph (H)(1)(b) of rule 3745-31-01 of the Administrative Code.

FINDINGS OF FACT

- 3) Gerken Materials owns and operates a hot mix asphalt facility (facility) at 8200 Sylvania Avenue, Sylvania, Ohio.

- 4) Gerken Materials performed an emission test at its Sylvania, Ohio facility on October 29 through 30, 2001.
- 5) Gerken Materials is subject to the permit to install (PTI) requirements of OAC Rule 3745-31-05(A).
- 6) The BAT limitation for Gerken Materials, Sylvania, Ohio source P901, drum-mix asphalt plant, is 80 pounds per hour of carbon monoxide (CO).
- 7) Gerken Materials reported an average CO emission rate of 194.05 pounds per hour for the emission test.

FINDINGS OF VIOLATION

- 8) Gerken Material's stack test at its Sylvania, Ohio facility on October 29 through 30, 2001 exceeded the BAT allowable rate of 80 pounds per hour CO, in violation of OAC Rule 3745-31-05(A) (3).

2-22-02

Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that a Notice of Violation was sent by Certified Mail, Return Receipt Requested, to:

Julian Gerken, President
Gerken Materials, Inc.
9-051 U.S. 24
P.O. Box 607
Napoleon, Ohio 43545

I also certify that a copy of the Notice of Violation was sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43602

on the 1st day of March, 2002.

Betty Williamson for Loretta Shaffer
Loretta Shaffer
Secretary, AECAS (MN/OH)

7099 3400 0000 95810553
CERTIFIED MAIL RECEIPT NUMBER